

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

In re:	Chapter 11
Archdiocese of Milwaukee,	Bankruptcy Case No. 11-20059-SVK
Debtor.	

Archbishop Jerome E. ListECKi, as Trustee of the Archdiocese of Milwaukee Catholic Cemetery Perpetual Care Trust,	Adv. Proc. No. 11-02459-SVK District Court Case No. 13-CV-179
Plaintiff-Appellant,	

vs.

Official Committee of Unsecured Creditors,
Defendant-Appellee.

**OFFICIAL COMMITTEE OF UNSECURED CREDITORS' MOTION
TO VACATE JUDGMENT AND DECISION AND ORDER PURSUANT
TO FEDERAL RULE OF CIVIL PROCEDURE 60(B) AND 28 U.S.C. § 455**

The Official Committee of Unsecured Creditors (the “Committee”) moves this court for an order pursuant to Federal Rule of Civil Procedure 60(b)(6) and 28 U.S.C. § 455 vacating the Judgment in a Civil Case entered by this Court on August 1, 2013 [Dist. Doc. No. 26] (the “Judgment of Dismissal”) and the Decision and Order entered on July 29, 2013 [Dist. Doc. No. 24] (the “Decision & Order”). The Judgment of Dismissal and the Decision & Order should be vacated on the grounds that the Honorable Rudolph T. Randa should have recused himself from his presiding over any aspect of this adversary proceeding pursuant to 28 U.S.C. § 455. Under established United States Supreme Court precedent, a presiding judge’s failure to

James I. Stang (CA Bar No. 94435)
Kenneth H. Brown (CA Bar No. 100396)
Gillian Brown (CA Bar No. 205132)
Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
E-mail: jstang@pszjlaw.com
gbrown@pszjlaw.com

recuse himself when required by 28 U.S.C. § 455 is grounds to vacate a judgment under Federal Rule of Civil Procedure 60(b)(6), and the Court should do so in this case.¹ This Motion is supported by the Affidavit of James I. Stang and the Memorandum of Points & Authorities submitted concurrently herewith.

Respectfully submitted,

Dated: August 12, 2013

By /s/ Marci A. Hamilton, Esq.
Marci A. Hamilton, Esq.
36 Timber Knoll Drive
Washington Crossing, PA 18977
Telephone: (215) 353-8984
Email: Hamilton.marci@gmail.com

Special Counsel to the Official Committee
of Unsecured Creditors

¹ On August 12, 2013, the Committee filed a separate Motion to Recuse Judge Randa from the Cemetery Trust Litigation or any Cemetery Related Proceedings (the "Motion to Recuse").

PACHULSKI STANG ZIEHL & JONES LLP

By /s/ James Stang

James I. Stang (CA Bar No. 94435)
Kenneth H. Brown (CA Bar No. 100396)
Gillian N. Brown (CA Bar No. 205132)
Erin Gray (CA Bar No. 157658)
Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd., 13th Floor
Los Angeles, CA 90067
Telephone: (310) 277-6910
Facsimile: (310) 201-0760
E-mail: jstang@pszjlaw.com
kbrown@pszjlaw.com
gbrown@pszjlaw.com

-and-

Albert Solochek (State Bar No. 1011075)
Jason R. Pilmaier (State Bar No. 1070638)
Howard, Solochek & Weber, S.C.
324 E. Wisconsin Ave., Suite 1100
Milwaukee, WI 53202
Telephone: (414) 272-0760
Facsimile: (414) 272-7265
E-mail: asolochek@hswmke.com
jpilmaier@hswmke.com

Attorneys for the Official Committee of
Unsecured Creditors